

Rules of the Board for Professional Engineers and Land Surveyors CALIFORNIA CODE OF REGULATIONS Sections 400-474.5

Title 16, Chapter 5

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TITLE 16, CHAPTER 5

Article 1. General Provisions

400. Introduction.

These regulations are adopted by the board in order to implement and make specific the Professional Engineers Act and the Land Surveyors' Act, Business and Professions Code Sections 6700, et seq., and 8700, et seq., respectively.

401. Declaratory Decisions.

No decision or opinion issued by or on behalf of the Board for Professional Engineers and Land Surveyors shall be considered a declaratory decision pursuant to Government Code section 11465.10 through 11465.70 unless the decision or opinion specifically states that it is a declaratory decision issued pursuant to Government Code sections 11465.10 through 11465.70.

403. Location of Offices.

The principal office of the board is 2535 Capitol Oaks Drive, Suite 300, Sacramento, 95833-2926. All correspondence relating to the activities of the board, including applications, renewals and remittances, shall be directed to the board's office.

404. Definitions.

For the purpose of the rules and regulations contained in this chapter, the following terms are defined. No definition contained herein authorizes the practice of engineering as defined in the Professional Engineers Act.

(a) "Agricultural engineering" is that branch of professional engineering which requires such education and experience as is necessary to understand and apply engineering principles to the design, construction, and use of specialized equipment, machines structures and materials relating to the agricultural industry and economy. It requires knowledge of the engineering sciences relating to physical properties and biological variables of foods and fibers; atmospheric phenomena as they are related to agricultural operations; soil dynamics as related to traction, tillage and plant-soil-water relationships; and human factors relative to safe design and use of agricultural machines. The safe and proper application and use of agricultural chemicals and their effect on the environment are also concerns of the agricultural engineers. The above definition of agricultural engineering shall not be construed to permit the practice of civil, electrical or mechanical engineering, nor professional forestry.

(b) "Board" means the Board for Professional Engineers and Land Surveyors.

(c) "Chemical engineering" is that branch of professional engineering which embraces studies or activities relating to the development and application of processes in which chemical or physical changes of materials are involved. These processes are usually resolved into a

coordinated series of unit physical operations and unit chemical processes. It is concerned with the research, design, production, operational, organizational, and economic aspects of the above. The above definition of chemical engineering shall not be construed to permit the practice of civil, electrical or mechanical engineering.

(d) "Civil engineer" refers to a person who holds a valid license in the branch of civil engineering, as defined in Section 6702 of the Code.

(e) "Civil engineering" is that branch of professional engineering as defined in Section 6731 of the Code.

(f) "Code" means the Business and Professions Code.

(g) "Consulting engineer" refers to any professional engineer who holds a valid license under the provisions of the code, or a person who possesses a valid authorization issued pursuant to Section 6732.2 of the Code, or a person who holds a valid exemption from provisions of the chapter as provided for in Sections 6704 and 6732.1 of the Code.

(h) "Control system engineering" is that branch of professional engineering which requires such education and experience as is necessary to understand the science of instrumentation and automatic control of dynamic processes; and requires the ability to apply this knowledge to the planning, development, operation, and evaluation of systems of control so as to insure the safety and practical operability of such processes. The above definition of control system engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

(i) "Corrosion engineering" is that branch of professional engineering which requires such education and experience as is necessary to understand the environmental corrosion behavior of materials; and requires the ability to apply this knowledge by recommending procedures for control, protection and cost effectiveness, resulting from the investigation of corrosion causes or theoretical reactions. The above definition of corrosion engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

(j) "Electrical engineer" refers to a person who holds a valid license in the branch of electrical engineering, as defined in Section 6702.1 of the Code.

(k) "Electrical engineering" is that branch of professional engineering described in Section 6734.1 of the Code, which embraces studies or activities relating to the generation, transmission, and utilization of electrical energy, including the design of electrical, electronic and magnetic circuits and the technical control of their operation and of the design of electrical gear. It is concerned with research, organizational, and the economic aspects of the above.

(l) "Engineer-in-training" refers to a person who has been granted a certificate as an "engineer-in-training" in accordance with Section 6756 of the Code.

(m) "Fire protection engineering" is that branch of professional engineering which requires such education and experience as is necessary to understand the engineering problems relating to the safeguarding of life and property from fire and fire-related hazards; and requires the ability to apply this knowledge to the identification, evaluation, correction, or prevention of present or potential fire and fire related panic hazards in buildings, groups of buildings, or communities, and to recommend the arrangement and use of fire resistant building materials and fire detection and extinguishing systems, devices, and apparatus in order to protect life and property. The above definition of fire protection engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

(n) "Industrial engineering" is that branch of professional engineering which requires such education and experience as is necessary to investigate, to design, and to evaluate systems

of persons, materials and facilities for the purpose of economical and efficient production, use, and distribution. It requires the application of specialized engineering knowledge of the mathematical and physical sciences, together with the principles and methods of engineering analysis and design to specify, predict, and to evaluate the results to be obtained from such systems. The above definition of industrial engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

(o) "Land surveying" is that practice defined in Section 8726 of the Code.

(p) "Land surveyor" refers to a person who holds a valid license as a land surveyor, as defined in Section 8701 of the Code.

(q) "Land surveyor-in-training" refers to a person who has been granted a certificate as a "land surveyor-in-training" in accordance with Section 8747 (a) of the Code.

(r) "Manufacturing engineering" is that branch of professional engineering which requires such education and experience as is necessary to understand and apply engineering procedures in manufacturing processes and methods of production of industrial commodities and products; and requires the ability to plan the practices of manufacturing, to research and develop the tools, processes, machines, and equipment, and to integrate the facilities and systems for producing quality products with optimal expenditure. The above definition of manufacturing engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

(s) "Mechanical engineer" refers to a person who holds a valid license in the branch of mechanical engineering, as defined in Section 6702.2 of the Code.

(t) "Mechanical engineering" is that branch of professional engineering, described in Section 6734.2 of the Code, which deals with engineering problems relating to generation, transmission, and utilization of energy in the thermal or mechanical form and also with engineering problems relating to the production of tools, machinery, and their products and to heating, ventilation, refrigeration and plumbing. It is concerned with the research, design, production, operational, organizational, and economic aspects of the above.

(u) "Metallurgical engineering" is that branch of professional engineering, which requires such education and experience as is necessary to seek, understand and apply the principles of the properties and behavior of metals in solving engineering problems dealing with the research, development and application of metals and alloys; and the manufacturing practices of extracting, refining and processing of metals. The above definition of metallurgical engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

(v) "Nuclear engineering" is that branch of professional engineering which requires such education and experience as is necessary to apply the principles of nuclear physics to the engineering utilization of nuclear phenomena for the benefit of mankind; it is also concerned with the protection of the public from the potential hazards of radiation and radioactive materials. Nuclear engineering is primarily concerned with interaction of radiation and nuclear particles with matter. Nuclear engineering requires the application of specialized knowledge of the mathematical and physical sciences, together with the principles and methods of engineering design and nuclear analysis to specify, predict and evaluate the behavior of systems involving nuclear reactions, and to ensure the safe, efficient operation of these systems, their nuclear products and by-products. Nuclear engineering encompasses, but is not limited to, the planning and design of the specialized equipment and process systems of nuclear reactor facilities; and the protection of the public from any hazardous radiation produced in the entire nuclear reaction process. These activities include all aspects of the manufacture, transportation and use of

radioactive materials. The above definition of nuclear engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

(w) "Petroleum engineering" is that branch of professional engineering which embraces studies or activities relating to the exploration, exploitation, location, and recovery of natural fluid hydrocarbons. It is concerned with research, design, production, and operation of devices, and the economic aspects of the above. The above definition of petroleum engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

(x) "Professional engineer" refers to a person engaged in the practice of professional engineering as defined in Section 6701 of the Code.

(y) "Professional engineering" within the meaning of this chapter comprises the following branches: agricultural engineering, chemical engineering, civil engineering, control system engineering, corrosion engineering, electrical engineering, fire protection engineering, industrial engineering, manufacturing engineering, mechanical engineering, metallurgical engineering, nuclear engineering, petroleum engineering, quality engineering, safety engineering, and traffic engineering.

(z) "Quality engineering" is that branch of professional engineering which requires such education and experience as is necessary to understand and apply the principles of product and service quality evaluation and control in the planning, development and operation of quality control systems, and the application and analysis of testing and inspection procedures; and requires the ability to apply metrology and statistical methods to diagnose and correct improper quality control practices to assure product and service reliability and conformity to prescribed standards. The above definition of quality engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

(aa) "Safety engineering" is that branch of professional engineering which requires such education and experience as is necessary to understand the engineering principles essential to the identification, elimination and control of hazards to people and property; and requires the ability to apply this knowledge to the development, analysis, production, construction, testing, and utilization of systems, products, procedures and standards in order to eliminate or optimally control hazards. The above definition of safety engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

(bb) "Soil engineer" refers to a civil engineer who holds a valid authorization to use the title "soil engineer," as provided in Section 6736.1 of the Code.

(cc) "Soil engineering," as it relates to the authorization to use the title "soil engineer," is the investigation and engineering evaluation of earth materials including soil, rock, groundwater and man-made materials and their interaction with earth retention systems, structural foundations and other civil engineering works. The practice involves application of the principles of soil mechanics and the earth sciences, and requires a knowledge of engineering laws, formulas, construction techniques and performance evaluation of civil engineering works influenced by earth materials.

The terms "geotechnical engineer" and "soils engineer" are deemed to be synonymous with the term "soil engineer."

(dd) "Structural engineer" refers to a civil engineer who holds a valid authorization to use the title "structural engineer," as provided in Section 6736 of the Code.

(ee) "Structural engineering" for the purposes of structural authority is the application of specialized civil engineering knowledge and experience to the design and analysis of buildings (or other structures) which are constructed or rehabilitated to resist forces induced by vertical

and horizontal loads of a static and dynamic nature. This specialized knowledge includes familiarity with scientific and mathematical principles, experimental research data and practical construction methods and processes. The design and analysis shall include consideration of stability, deflection, stiffness and other structural phenomena that affect the behavior of the building (or other structure).

(ff) "Traffic engineering" is that branch of professional engineering which requires such education and experience as is necessary to understand the science of measuring traffic and travel and the human factors relating to traffic generation and flow; and requires the ability to apply this knowledge to planning, operating, and evaluating streets and highways and their networks, abutting lands and interrelationships with other modes of travel, to provide safe and efficient movement of people and goods. The above definition of traffic engineering shall not be construed to permit the practice of civil, electrical, or mechanical engineering.

404.1. Definition of Responsible Charge for Professional Engineers.

As used in the Professional Engineers Act, the term "responsible charge" directly relates to the span or degree of control a professional engineer is required to maintain while exercising independent control and direction of professional engineering work, and to the engineering decisions which can be made only by a professional engineer.

(a) Span of Control. The span of control necessary to be in responsible charge shall be such that the engineer:

(1) Personally makes engineering decisions, or reviews and approves proposed decisions prior to their implementation, including consideration of alternatives, whenever engineering decisions which could affect the health, safety or welfare of the public are made.

In making engineering decisions, the engineer must be physically present or through the use of communication devices be available in a reasonable period of time.

(2) Judges the qualifications of technical specialists and the validity and applicability of their recommendations before such recommendations are incorporated in the work.

(b) Engineering Decisions. The term "responsible charge" relates to engineering decisions within the purview of the Professional Engineers Act and does not refer to management control in a hierarchy of professional engineers except as each of the individuals in the hierarchy exercises independent engineering judgment and thus responsible charge. It does not refer to such administrative and personnel management functions as accounting, labor relations, performance standards, marketing of service and goal setting. While an engineer may also have such duties in this position, it should not enhance or decrease one's status of being in responsible charge of the work. The phrase does not refer to the concept of financial liability.

Engineering decisions which must be made by and are the responsibility of the engineer in responsible charge are those decisions concerning permanent or temporary work which would create a hazard to life, health, property or public welfare, and may include, but are not limited to:

(1) The selection of engineering alternatives to be investigated and the comparison of alternatives for engineering works.

(2) The selection or development of design standards or methods, and materials to be used.

(3) The selection or development of techniques or methods of testing to be used in evaluating materials or completed works, either new or existing.

(4) The review and evaluation of manufacturing, fabrication or construction methods or controls to be used and the evaluation of test results, materials and workmanship insofar as they affect the character and integrity of the completed work.

(5) The development and control of operating and maintenance procedures. Such engineering decisions are those generally made at the project level or higher.

(c) Responsible Charge Criteria. As a test to evaluate whether an engineer is in responsible charge, the following must be considered: The professional engineer who signs engineering documents must be capable of answering questions asked by equally qualified engineers. These questions would be relevant to the engineering decisions made during the individual's participation in the project, and in sufficient detail to leave little question as to the engineer's technical knowledge of the work performed. It is not necessary to defend decisions as in an adversary situation, but only to demonstrate that the individual (in responsible charge) made them and possessed sufficient knowledge of the project to make them.

Examples of questions to be answered by the engineer could relate to criteria for design, methods of analysis, methods of manufacture and construction, selection of materials and systems, economics of alternate solutions, and environmental considerations. The individual should be able to clearly define the span or degree of control and how it is exercised both within the organization and geographically and to demonstrate that the engineer is answerable within said span or degree of control.

404.2. Definition of Responsible Charge for Land Surveyors.

The term "responsible charge" directly relates to the span or degree of control a licensed land surveyor is required to maintain while exercising independent control and direction of land surveying work, and the land surveying decisions which can be made only by a licensed land surveyor.

(a) Span of Control. The span of control necessary to be in responsible charge shall be such that the land surveyor:

(1) Personally makes land surveying decisions, or reviews and approves proposed decisions prior to their implementation, including consideration of alternatives, whenever land surveying decisions which could affect the health, safety or welfare of the public are made. In making land surveying decisions, the land surveyor must be physically present or through the use of communication devices be available in a reasonable period of time.

(2) Judges the qualifications of technical specialists and the validity and applicability of their recommendations before such recommendations are incorporated in the work.

(b) Land Surveying Decisions. The term "responsible charge" relates to land surveying decisions within the purview of the Professional Land Surveyors' Act and does not refer to management control in a hierarchy of those persons authorized to practice land surveying except as each of the individuals in the hierarchy exercises independent land surveying judgment and thus responsible charge. It does not refer to such administrative and personnel management functions as accounting, labor relations, performance standards, marketing of service and goal setting. While a person authorized to practice land surveying may also have such duties in this position, it shall not enhance or decrease one's status of being in responsible charge of the work. The phrase does not refer to the concept of financial liability.

Land surveying decisions which must be made by and are the responsibility of the land surveyor in responsible charge are those decisions concerning permanent or temporary

work which would create a hazard to life, health, property or public welfare, and may include, but are not limited to:

(1) Selecting the methods, procedures, and accuracies of field work. Determining calculation and adjustment methods.

(2) Specifying the format and information to be shown on maps or documents furnished in connection with land surveying. Reviewing the sufficiency and accuracy of the work product.

(c) Responsible Charge Criteria. As a test to evaluate whether a person authorized to practice land surveying is in responsible charge, the following must be considered: The land surveyor who signs surveying documents must be capable of answering questions asked by equally qualified land surveyors. These questions would be relevant to the decisions made during the individual's participation in the project, and in sufficient detail to leave little question as to the land surveyor's technical knowledge of the work performed. It is not necessary to defend decisions as in an adversary situation, but only to demonstrate that the individual in responsible charge made them and possessed sufficient knowledge of the project to make them.

Examples of questions to be answered by the land surveyor could relate to criteria for design, methods of analysis and conclusions made including, but not limited to, the retracement of government surveys, interpretation and construction of deeds, application of proportion methods and analysis of evidence related to unwritten property rights.

The individual shall be able to clearly define the span or degree of control and how it is exercised both within the organization and geographically and to demonstrate that the land surveyor is answerable within said span or degree of control.

405. Delegation of Certain Functions.

(a) Whenever it is stated in these rules that the "Board" may or shall exercise or discharge any power, duty, purpose, function, or jurisdiction, the Board specifically has reserved the same for its own, exclusive action.

(b) Whenever it is stated the "executive officer" may or shall exercise or discharge any power, duty, purpose, function, or jurisdiction, the executive officer of the Board has the authority to act thereon.

(c) Any party in interest may appeal to the Board for review of the actions and decisions of the executive officer.

(d) Nothing herein prohibits the executive officer from redelegating to his/her subordinates as provided in Section 18572 of the Government Code.

(e) The power and discretion conferred by law upon the Board to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code, issue subpoenas and subpoenas duces tecum, set and calendar cases for hearing and perform other functions necessary to the businesslike dispatch of the business of the Board in connection with proceedings under the provisions of Sections 11400 through 11529 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said Code are hereby delegated to and conferred upon the executive officer, or to his/her designee.

407. Fees.

(a) All fees required by provisions of the code as implemented by the board shall be transmitted by money order, bank draft or check, payable to the Department of Consumer

Affairs, at Sacramento.

(b) The following is the prescribed application fee for:

(1) Authority to use the title "structural engineer"	\$175
(2) Authority to use the title "geotechnical engineer"	\$175
(3) Licensure as a professional engineer	\$175
(4) Licensure as a professional land surveyor	\$175
(5) Certification as an engineer-in-training or as a land surveyor-in-training	\$ 60

(c) The four-year renewal fee for licensing periods starting on or after July 1, 1990, shall be \$160.

(d) The fee for an examination appeal filed pursuant to Rule 444 shall be \$134.00.

(e) Fees required under provisions of this rule transmitted through the United States mail shall be deemed filed on the date shown by the post office cancellation mark stamped on the envelope containing it, or on the date mailed if satisfactory proof is made that mailing occurred on an earlier date.

(f) Renewal applications filed with the board more than thirty (30) days after 12 midnight on the expiration date pursuant to the Professional Land Surveyors' Act and more than sixty (60) days after 12 midnight on the expiration date pursuant to the Professional Engineers Act and not accompanied by the prescribed delinquent penalty fee equal to 50 percent of the renewal fee, shall be returned by the executive officer with a statement of the reason therefor.

(g) Refund of fees submitted to the Board shall be made only as follows:

(1) Any application fees or penalties imposed and collected illegally, by mistake, inadvertence or error shall be refunded in full.

(2) An applicant for licensure as a professional engineer, for licensure as a professional land surveyor, for permission to use the title "structural engineer" or "geotechnical engineer," for certification as an engineer-in-training or for certification as a land surveyor-in-training found not eligible for admission to the examination requested is entitled to a refund of one-half of the application fee. Upon request, one-half of the application fee shall be refunded to the estate of an applicant who dies prior to taking an examination.

408. Meetings.

(a) The board will meet at times and places within California designated by the board and shall hold at least two regular meetings each year.

(b) Special meetings of the board shall be called from time to time by the Board president when necessary. Special meetings shall also be called by the executive officer upon a written request signed by two board members.

(c) All meetings will be noticed in accordance with the requirements of the Bagley-Keene Open Meeting Act (Government Code section 11120, et seq.).

410. Certificates.

(a) Certificates and licenses will be issued in the order in which the applicants qualify.

(b) A duplicate of a certificate issued in accordance with Section 6765 of the Professional Engineers Act or Section 8749 of the Professional Land Surveyors' Act shall be issued only to replace one lost, destroyed, or mutilated, upon a written request accompanied by a fee of \$10 and an affidavit verifying the loss, destruction or mutilation of the previous certificate. The affidavit of lost license must be submitted on a form provided by the board.

411. Seal.

(a) The seal authorized by Section 6764 of the code, for use by professional engineers, including those with authority to use the titles “structural engineer” and “geotechnical engineer,” may be purchased by the registrant from any convenient source, but shall be either of Design A or Design B as shown here and shall be not less than one and one-half inches in diameter. For civil engineers, electrical engineers, and mechanical engineers, the expiration date of registration shall either be included in the seal or stamp or written in directly under the registration number. For all other professional engineers, the inclusion of the expiration date of registration in the seal or stamp shall be at the discretion of the engineer.



Design A



Design B

(b) The seal authorized by Section 8750 of the code for use by land surveyors may be purchased by the licensee from any convenient source, but shall be either of Design A or Design B as shown here and shall not be less than one and one-half inches in diameter. The expiration date of the license shall either be included in the seal or stamp or written in directly above the license number.



Design A



Design B

(c) The seal, authorized by subsections (a) and (b) above, may either be a rubber stamp or of the embossing type.

412. Address Change.

Each person who is an applicant for, or a holder of, a certificate or license issued by the Board under provisions of the Professional Engineers Act or the Professional Land Surveyors' Act shall file his/her address with the Board office. Within thirty (30) days after changing addresses, he/she shall notify the Board office of such change.

415. Practice Within Area of Competence.

A professional engineer or land surveyor licensed under the Code shall practice and perform engineering or land surveying work only in the field or fields in which he/she is by education and/or experience fully competent and proficient.

Nothing in this regulation shall be construed: (1) to prohibit a professional engineer from signing plans which include engineering work in areas other than that in which he/she is fully competent and proficient, if such work was performed by other engineers who were fully competent

and proficient in such work; (2) to prohibit a professional engineer from performing engineering work or a land surveyor from performing land surveying work in areas which involve the application of new principles, techniques, ideas or technology; (3) to prohibit a professional engineer from supervising other engineers or a land surveyor from supervising other land surveyors who may respectively be performing engineering work or land surveying work in areas other than those in which the supervising professional engineer or supervising land surveyor is fully competent and proficient; and (4) to prohibit a professional engineer from signing plans which include engineering work, portions of which were designed or required by any governmental agency.

416. Substantial Relationship Criteria.

For the purpose of denial, suspension, or revocation of the license of a professional engineer or a land surveyor pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a professional engineer or land surveyor if, to a substantial degree, it evidences present or potential unfitness of a professional engineer or land surveyor to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

- (a) For professional engineers, any violations of the provisions of the Professional Engineers Act or aiding and abetting any person in such a violation;
- (b) For land surveyors, any violations of the provisions of the Professional Land Surveyors' Act or aiding and abetting any person in such a violation;
- (c) A conviction of a crime arising from or in connection with the practice of professional engineering or land surveying.

418. Criteria for Rehabilitation.

(a) When considering the denial of an application for licensure as a professional engineer, or for licensure as a land surveyor, or for authority to use the title "structural engineer," or for authority to use the title "geotechnical engineer," under Section 480 of the Code, the board will consider the following criteria in evaluating the rehabilitation of the applicant and his/her present eligibility for such a licensure or Authority cited:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which could also be considered as grounds for denial under Section 480 of the Business and Professions Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Any evidence of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of the license of a professional engineer or a land surveyor, under Section 490 of the Code, the Board will consider the following criteria in evaluating the rehabilitation of such person and his/her present eligibility to retain his/her license:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation which could also be considered as grounds for suspension or revocation under Section 490 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.

(5) Any evidence of rehabilitation submitted by the licensee.

(6) Total criminal record.

(7) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(c) When considering a petition for reinstatement of the license of a professional engineer or a land surveyor, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in subsection (b).

419. Disciplinary Orders.

For violations of Business and Professions Code sections 6775 and/or 8780 which result in an order issued in accordance with Chapters 4.5 and 5 of Part 1 of Division 3 of Title 2 of the Government Code against a professional engineering and/or a professional land surveying license, the following provisions shall apply to disciplinary orders contained in decisions of the Board:

(a) The minimum disciplinary order shall be reproof. The maximum disciplinary order shall be revocation of the license.

(b) If warranted by extenuating and/or mitigating factors in the matter, the disciplinary order may be stayed by an express condition that the respondent comply with probationary conditions. The minimum time period in which the respondent shall have to comply with the conditions shall be two years. For purposes of this section, this time period shall be known as the "period of probation."

(c) All decisions containing stayed disciplinary orders as described in subdivision (b) shall include the following probationary conditions:

(1) The respondent shall obey all laws and regulations related to the practices of professional engineering and professional land surveying.

(2) The respondent shall submit such special reports as the Board may require.

(3) The period of probation shall be tolled during the time the respondent is practicing exclusively outside the state of California. If, during the period of probation, the respondent practices exclusively outside the state of California, the respondent shall immediately notify the Board in writing.

(4) If the respondent violates the probationary conditions in any respect, the Board, after giving the respondent notice and the opportunity to be heard, may vacate the stay and reinstate the disciplinary order which was stayed. If, during the period of probation, an accusation or petition to vacate stay is filed against the respondent, or if the matter has been submitted to the Office of the Attorney General for the filing of such, the Board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final.

(5) Upon successful completion of all of the probationary conditions and the expiration of the period of probation, the respondent's license shall be unconditionally

restored.

(d) All decisions containing stayed disciplinary orders as described in subdivision (b) may include one or more of the following probationary conditions:

(1) The respondent's license shall be suspended for a period not to exceed two years. If a suspension of the license is ordered, it shall begin on the effective date of the decision.

(2) Within 60 days of the effective date of the decision, the respondent shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board.

(3) The respondent shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee. The probationary condition shall include a time period in which this course shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

(4) Within 30 days of the effective date of the decision, the respondent shall provide the Board with evidence that he or she has provided all persons or entities with whom he or she has a contractual or employment relationship such that the relationship is in the area of practice of professional engineering and/or professional land surveying in which the violation occurred with a copy of the decision and order of the Board and shall provide the Board with the name and business address of each person or entity required to be so notified. During the period of probation, the respondent may be required to provide the same notification to each new person or entity with whom he or she has a contractual or employment relationship such that the relationship is in the area of practice of professional engineering and/or land surveying in which the violation occurred and shall report to the Board the name and address of each person or entity so notified.

(5) The respondent shall provide verifiable proof to the Board that restitution has been paid as ordered. The probationary condition shall include a time period in which the verifiable proof shall be provided to the Board which time period shall be at least 60 days less than the time period ordered for the period of probation.

(e) In addition to the conditions as may be ordered pursuant to subdivisions (c) and/or (d), the following conditions shall be included for the following specific violations:

(1) Incompetency in the practice of professional engineering and/or professional land surveying:

(A) The respondent shall successfully complete and pass, with a grade of "C" or better, a minimum of one and a maximum of three college-level courses, approved in advance by the Board or its designee. Such courses shall be specifically related to the area of violation. For purposes of this subdivision, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; "college-level course" does not include seminars. The probationary condition shall include a time period in which the course(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

(B) The respondent shall take and achieve the passing score as set by the Board for the second division examination (including the seismic principles and engineering surveying examinations for civil engineers), provided that in the

event the respondent holds multiple licenses, the Board shall select the examination in the area of practice of professional engineering and/or professional land surveying in which the violation occurred and in the area of professional engineering and/or professional land surveying in which the respondent is licensed. The Board or its designee may select the specific examination questions such that the questions relate to the specific area of violation and comprise an examination of the same duration as that required of an applicant for licensure. The respondent shall be required to pay the application fee as described in Section 407 and shall be afforded all examination appeal rights as described in Sections 407, 443, and 444. The probationary condition shall include a time period in which the examination(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

(C) During the period of probation, the respondent may practice professional engineering and/or professional land surveying only under the supervision of a professional engineer and/or professional land surveyor licensed in the same branch as the respondent. This person or persons shall be approved in advance by the Board or its designee. Such supervising professional engineer and/or professional land surveyor shall initial every stamped or sealed document in close proximity to the respondent's stamp or seal.

(2) Negligence in the practice of professional engineering and/or professional land surveying:

(A) The respondent shall successfully complete and pass, with a grade of "C" or better, a minimum of one and a maximum of three college-level courses, approved in advance by the Board or its designee. Such courses shall be specifically related to the area of violation. For purposes of this subdivision, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; "college-level course" does not include seminars. The probationary condition shall include a time period in which the course(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

(3) Violation and/or breach of contract in the practice of professional engineering and/or professional land surveying:

(A) The respondent shall successfully complete and pass, with a grade of "C" or better, a minimum of one and a maximum of three college-level courses, approved in advance by the Board or its designee. Such courses shall be specifically related to the area of violation. For purposes of this subdivision, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; "college-level course" does not include seminars. The probationary condition shall include a time period in which the course(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

(4) Failure to file a record of survey and/or corner record in the practice of professional land surveying:

(A) For any records of survey and/or corner records found not to have been filed and recorded, the respondent shall file or record, as appropriate, the required record(s) with the appropriate governmental agency within 90 days of the effective

date of the decision. The respondent shall provide the Board with verifiable proof that the required record(s) have been filed or recorded, as appropriate, by the governmental agency within 30 days of such filing or recordation. If an actual suspension of the respondent's license is ordered as a probationary condition, the record(s) required by this subdivision shall be the only professional land surveying work the respondent is allowed to perform during the suspension.

(f) If the respondent is a civil engineer who is legally authorized to practice professional land surveying and the violation involves negligence and/or incompetency in the practice of professional land surveying and if warranted by aggravating factors in the matter, the disciplinary order shall include the following condition:

(1) The existing civil engineer license shall be revoked; a new civil engineer license shall be issued which does not authorize the respondent to practice professional land surveying. Before being permitted to practice professional land surveying, the respondent shall complete and comply with all of the legal requirements for licensure as a professional land surveyor, including, but not limited to, supplying the appropriate application documents and fees and taking and passing the entire second-division examination in professional land surveying.

In addition to the disciplinary orders described in this section, all decisions shall address recovery of the Board's investigation and enforcement costs, as described in and authorized by Business and Professions Code section 125.3.

Notwithstanding this section, non-conforming terms and conditions may be included as part of the disciplinary order, including such other further or lesser action as the Board deems appropriate, in the interest of protecting the public health, safety, and welfare.

As used in this section, "license" includes certificate of registration *or license* as a professional engineer, licensure as a professional land surveyor, and certificates of authority to use the titles "structural engineer," "geotechnical engineer," "soil engineer," "soils engineer," or "consulting engineer."

Article 2. Applications

420. Applications.

(a) Applications for certification, for licensure, or for a certificate of authority shall be:

(1) Filed on a form prescribed by the executive officer and shall be typewritten.
(2) Filed at the office of the Board and accompanied by the required application fee.

(3) Made out properly in every respect and must contain full information.

(4) Subscribed and certified to "under penalty of perjury" as provided by Section 2015.5 of the Code of Civil Procedure.

(b) An application made otherwise will not be accepted by the Board and it may be returned by the executive officer with a statement of the reason therefor.

(c) Upon evaluation of the applicant's qualifications, his/her examination results and any other supporting data, his/her application will be either:

(1) Denied without prejudice, and the application fee retained by the Board for the Professional Engineers' Fund.

(2) Approved, and he/she will be granted the certification for which application was made.

(d) The Board may request each applicant to provide the Board with a current photograph after an applicant has become licensed.

421. Refile Application.

(a) The executive officer may prescribe a short application form for use of those applicants who, failing an examination, apply within a reasonable period of time after the date of the examination previously failed, for re-examination. This application form may be known as a refile application form. The applicant and his application for re-examination shall be subject to the same provisions of the code and rules of the board, whenever applicable, as govern the filing of an original application.

(b) The applicant for re-examination shall be assigned by the executive officer to the next scheduled examination for which his/her application qualifies him/her.

422. Final Filing Date.

(a) An application filed with the board after the final filing date announced for an examination shall not be considered for such examination.

(b) Whenever the final filing date announced for an examination falls upon a Saturday, Sunday or holiday, it shall be extended to the next business day following.

(c) If an application is filed with the board through the United States mail, it shall be deemed filed on the date shown by the post office cancellation mark stamped on the envelope containing it, or on the date mailed if satisfactory proof is made that the mailing occurred on an earlier date.

424. Experience.

(a) The branches and title authorities described in Section 404, herein, overlap and some activities are common to two or more branches and title authorities. The minimum number of years of qualifying experience in such overlapping branches and title authorities may be used in securing licensure in any applicable branch or title authority but cannot be used more than once. The only exception to this is experience credit for education. Qualifying education entitles a candidate to experience credit and this experience credit can be used again even though it has already been used to qualify for another examination.

(b) An applicant for licensure as a professional engineer shall be granted four years experience credit for graduation from an approved engineering curriculum; or, two years experience credit for graduation from a nonapproved engineering curriculum or an approved engineering technology curriculum. The additional actual work experience required to meet the six years experience requirement shall have been gained after graduation, except for cooperative work-study experience. A maximum of five years experience credit shall be granted for graduation from a cooperative work-study engineering curriculum accredited by the Accreditation Board for Engineering and Technology (ABET).

A graduate of an approved postgraduate engineering curriculum shall be given one year of additional experience credit over and above credit given for undergraduate education. Incomplete undergraduate engineering education at an approved institution shall be given one-half year of experience for each year of study completed.

The sum of qualifying experience credit for education and engineering teaching experience shall not exceed five years.

(c) Qualifying experience is that experience satisfactory to the Board which has been gained while performing engineering tasks under the direction of a person legally qualified to practice in an applicants' branch of engineering.

(1) For the purposes of this section, “legally qualified” means having an appropriate license as a professional engineer; or, being an employee of the Federal Government; or, except for civil engineers, by virtue of being an employee of a manufacturing, mining, public utility, research and development, or other industrial corporation; or by holding an appropriate license as a contractor.

(2) Qualifying experience shall be computed on an actual time worked basis, but not to exceed forty hours per week.

(3) Applied engineering research is an engineering task for the purposes of determining qualifying experience.

(d) An applicant for licensure as a land surveyor must fulfill the educational and experience requirements outlined in Sections 8741 and 8742 of the Code performing two or more of the activities listed in Section 8726 (a) - (f) of the Code. The experience requirements must be gained under the immediate direction and supervision of a person qualified to practice land surveying.

Applicants who have passed the land-surveyor-in-training examination shall not be credited with two years land surveying experience toward the six years necessary for licensure, effective January 1, 2000.

(e) Computation of qualifying experience for licensure as a land surveyor, for licensure as a professional engineer, or for authority to use the title “structural engineer” or “geotechnical engineer” shall be to the date of filing of the application; or it shall be to the final filing date announced for the examination if the application is filed within a period of thirty (30) days preceding the final filing date announced for such examination.

424.5. Reinstatement Requirements for Delinquent Applicants.

(a) A license which has not been renewed within the time required under Business and Professions Code section 6796.3 or 8803 is considered delinquent and, except as provided in subdivision ~~(d)~~ (c), shall be reinstated if the applicant complies with the following:

(1) Submits evidence satisfactory to the Board that the applicant is qualified in the branch for which he or she is applying. This evidence shall consist of:

(A) A completed, typewritten application on a form as specified in Section 420 accompanied by the required application fee as specified in Section 407 (b)(1)-(4).

(B) Completed appropriate reference forms as specified in Sections 427.10, 427.20, or 427.30. The submission of a reference which states that the applicant is not technically qualified to be licensed shall be grounds for denial.

(2) Takes and passes the examination on the applicable state laws and board regulations as specified in *Business and Professions Code* section 6755.2 or 8741.1 ~~of the Business and Professions Code.~~

(3) Takes and passes examinations on seismic principles and engineering surveying, if he or she is a civil engineering applicant whose initial registration was issued prior to January 1, 1988.

(4) Pays all accrued and unpaid renewal fees.

(5) Has not committed any acts or crimes constituting grounds for denial of licensure under Business and Professions Code section 480.

(b) An applicant who is unable to submit evidence satisfactory to the ~~b~~Board that he or she is qualified as provided in subdivision (a)(1) shall take and pass the appropriate second

division examination *or the appropriate title authority examination* in addition to the requirements specified in subdivision (a)(2)-~~(4)~~ (5) *prior to reinstatement of the delinquent license.*

(c) The Board shall reinstate the license of a delinquent applicant who:

(1) Qualifies for licensure under subdivisions (a) or (b) of this section; and

(2) Has been practicing in responsible charge or offering to practice with a delinquent license and who has not otherwise violated any other provision of law substantially related to his or her license.

(d) Notwithstanding subdivisions (a) and (b), the Board shall deny the application for reinstatement and file a statement of issues against any individual who has been practicing in responsible charge with a delinquent license and who has violated any other provision of law substantially related to his or her license. In considering any proposed stipulated settlement from an applicant whose reinstatement application has been denied pursuant to this subdivision, the Board may reinstate the license of such an individual; however, it shall evaluate the evidence of rehabilitation as provided in Section 418 and attach conditions to the reinstatement *may pursue action, including but not limited to revocation or suspension of the license pursuant to Business and Professions Code sections 6775, 6776, 8780, and 8781, issuance of a citation containing an order to pay an administrative fine pursuant to Sections 473 through 473.4, filing of criminal charges pursuant to Business and Professions Code sections 6787 and 8792, and denial of the application pursuant to Section 420, against the applicant if evidence obtained during an investigation reveals that the applicant has violated any provision of the Business and Professions Code, the California Code of Regulations, or other applicable laws and regulations related to the practices of professional engineering or professional land surveying during the period of delinquency, including, but not limited to, practicing or offering to practice with an expired or delinquent license.*

(e) (d) The application response timeframe is as specified in Section 470 (a).

(f) (e) The Board's time period for processing an application from receipt of the initial application to the final decision regarding issuance or denial of licensure is as specified in Section 471.

As used in this section, "license" includes certificate of registration as a professional engineer, licensure as a professional land surveyor, and certificates of authority to use the title "structural engineer," "soil engineer," or "consulting engineer."

(Effective January 1, 2000)

426.10. Qualification Requirements for Structural Authority.

An applicant for authority to use the title "structural engineer" shall comply with all of the following requirements:

(a) The applicant shall hold an unexpired, valid California license as a civil engineer.

(b) The applicant shall submit evidence satisfactory to the Board that the applicant has been in responsible charge of structural engineering qualifying experience for a minimum of three years subsequent to the date of examination which was passed to gain California license as a civil engineer or as provided in Section 426.14.

426.11. Qualifying Experience for Structural Authority.

"Structural Engineering qualifying experience" is defined as acceptable professional practice in responsible charge of structural engineering projects as related to buildings (or other structures) and shall include structural design experience in all areas as specified in subdivisions (a)-(f) below because the stability of a structure is dependent upon the interaction of the individual structural components as well as the structure as a whole:

(a) Common Construction Materials - Steel, Concrete, Wood and Masonry: A structural engineer shall have experience in the use of three of the four common construction materials of steel, concrete, wood, and masonry as they relate to the design, rehabilitation and/or investigation of buildings (or other structures);

(b) Determination of Lateral Forces: A structural engineer shall have experience regarding structural design to resist lateral forces;

(c) Selection of Framing Systems: A structural engineer shall have experience regarding the selection of framing systems, including the consideration of alternatives and the selection of an appropriate system for the interaction of structural components to support vertical and lateral loads;

(d) Selection of Foundation Systems: A structural engineer shall have experience in the selection of foundation systems, including the consideration of alternatives and the selection of an appropriate type of foundation system to support the structure;

(e) Application of Code Requirements: A structural engineer shall have experience in applying local, state and federal requirements relating to design loads, materials, and detailing; and

(f) Multi-story Buildings or Equivalent Multi-level Structures: A structural engineer shall have experience with the design and detailing for the transfer of forces between stories in multi-story buildings. A multi-story building is a building which is more than one story in height and which is not exempted pursuant to Section 6737.1 of the code.

426.12. Experience for Checking Structural Plans.

The Board shall consider the following experience as structural engineering qualifying experience, in lieu of that experience defined in Section 426.11: Professional level employment performing the checking of structural engineering plans and calculations, when performed under the immediate supervision of, and certified to by, either a civil engineer who holds a valid California license with the authority to use the title "structural engineer" in this state or a Professional Engineer who is authorized to use the title "structural engineer" registered or licensed outside of this state but registered or licensed in a state which has a comity agreement with the State of California related to structural engineering. However, an applicant who applies for authority to use the title "structural engineer" under this section shall furnish the Board with a verification of employment from each employer which lists the name(s) of the immediate supervisor of the applicant during the period of employment used as qualifying experience under this section.

426.13. Supplemental Evidence of Responsible Charge for Structural Authority.

(a) The board shall consider the following as supplemental evidence, if submitted for consideration, to assist in determining whether an applicant for structural authority possesses the requisite three (3) years of structural engineering qualifying experience at the level of responsible charge as required in Section 426.10 and defined in Sections 426.11 and 426.12:

(1) Project management experience:

(A) Coordination with other disciplines such as civil, electrical and mechanical engineers and/or architects;

(B) Production of construction document packages such as calculations, drawings and specifications; and,

(C) Supervision and/or coordination of staff.

(2) Field experience:

- (A) Familiarity with techniques, methods and means of construction;
- (B) Field observation of construction for compliance to drawings and specifications; and,
- (C) Field investigation of existing structures for evaluation or forensic purposes.

(b) Notwithstanding subsections (a)(1) and (a)(2), other types of experience deemed equivalent to project management or field experience may be considered on a case-by-case basis to assist in determining whether an applicant possesses the three (3) years of structural engineering qualifying experience at the level of responsible charge as required in Section 426.10.

(c) Any experience submitted pursuant to this section shall not be considered as a substitute for the mandatory types of qualifying experience required by Section(s) 426.11 and/or 426.12.

426.14. Experience for Structural Engineering Gained Out of State.

(a) The Board may consider an application for authority to use the title “structural engineer” from an applicant who does not possess three (3) years of qualifying experience subsequent to the date of the examination which was passed to gain *licensure* as a California civil engineer but who possesses experience equivalent to that provided in Section 426.11 based upon either:

(1) A minimum of three (3) years of structural engineering qualifying experience gained after the applicant’s registration or licensure as civil engineer in another state.

(2) A minimum of three (3) years of structural engineering qualifying experience which was gained while exempt from licensure pursuant to Section 6739 of the Code or while employed or registered or licensed in another country. Such experience shall be in addition to the experience required for licensure as a civil engineer in this state.

(b) Applicants seeking approval of their structural engineering qualifying experience, pursuant to this section, shall file their application at least six months prior to the final filing deadline to be considered for the next scheduled examination. Applicants may be required to appear for an interview regarding their structural engineering qualifying experience.

426.50. Qualification Requirements “Soil Engineer”.

An applicant for authority to use the title “soil engineer” shall:

(a) Hold an unexpired, valid California license as a civil engineer.

(b) Submit evidence satisfactory to the Board that the minimum number of years of qualifying experience or education has been met as required in Sections 6736.1(b) and 6763 of the Code and as defined in Section 426.51, subsequent to the date of examination which was passed to gain licensure as a civil engineer. In addition, up to one year credit as qualifying experience in responsible charge will be given for possession of post graduate degree(s) from a Board approved school of engineering with major studies in soil engineering as listed in Section 426.51(c). Credit for post graduate degree(s) will not be given if it has already been applied to the experience requirement for civil engineering licensure.

426.51. Qualifying Experience for “Soil Engineer.”

“Qualifying experience” means responsible charge of soil engineering projects. Evidence shall be provided that the applicant has qualifying experience in the areas described in subdivisions (a), (c) and (e) and has demonstrated working knowledge in the areas described in subdivisions (a) through (e). At least one-half of the applicant’s annual full-time professional practice shall be in soil engineering, except that a teacher of soil engineering and related courses at a board approved school

of engineering will be given credit for applicable consulting work as a percentage of equivalent full-time work. Applicable consulting work shall be substantiated by references and project documents.

(a) Development of programs of geotechnical investigation which includes, but is not limited to:

(1) Communication with other design consultants to determine their geotechnical input needs;

(2) Performance of literature searches, site history analyses, etc., related to surface and subsurface conditions;

(3) Formulation or engineering evaluation of field exploration and laboratory testing programs to accomplish the scope of the investigation;

(4) Preparation or engineering evaluation of proposals.

(b) Performance of geotechnical field and laboratory studies which includes, but is not limited to:

(1) Direction and/or modification of field exploration programs, as required upon evaluation of the conditions being encountered;

(2) Classification and evaluation of subsurface conditions.

(3) Understanding the purposes for and being qualified to perform routine field and laboratory tests for:

(A) soil strength

(B) bearing capacity

(C) expansion properties

(D) consolidation characteristics

(E) soil collapse potential

(F) erosion potential

(G) compaction characteristics

(H) material acceptability for use in fill

(I) pavement support qualities

(J) freeze-thaw properties

(K) grain-size

(L) permeability/percolation properties

(c) Analysis of geotechnical data and engineering computations which includes, but is not limited to:

(1) Analysis of field and laboratory test results regarding:

(A) soil strength

(B) bearing capacity

(C) expansion properties

(D) consolidation characteristics

(E) soil collapse potential

(F) erosion potential

(G) compaction characteristics

(H) material acceptability for use in fill

(I) pavement support qualities

(J) freeze-thaw properties

(K) grain-size

(L) permeability/percolation properties

(M) ground water conditions

- (N) soil dynamic properties
- (2) Performance of computations using test results and available data regarding:
 - (A) bearing capacity
 - (B) foundation type, depth, dimensions
 - (C) allowable soil bearing pressures
 - (D) potential settlement
 - (E) slope stability
 - (F) retaining systems
 - (G) soil treatment
 - (H) dewatering/drainage
 - (I) floor support
 - (J) pavement design
 - (K) site preparation
 - (L) fill construction
 - (M) liquefaction potential
 - (N) ground response to seismic forces
 - (O) ground water problems; seepage
 - (P) underpinning
- (d) Performance or engineering evaluation of construction, postconstruction and site monitoring which includes, but is not limited to:
 - (1) Performance or supervision of geotechnical testing and observation of site grading;
 - (2) Analysis, design and evaluation of instrumentation programs to evaluate or monitor various phenomena in the field, such as settlement, slope creep, porewater pressures and ground water variations;
 - (3) Geotechnical observation during construction and/or installation, including but not limited to, spread foundations, drilled piers, piles, slurry walls, anchors, bulkheads, shoring, underpinning and subdrains;
 - (4) Engineering evaluation of soil related distress.
- (e) Preparation or engineering evaluation of geotechnical reports which includes, but is not limited to:
 - (1) Preparation of appropriate plans, logs, test results and other exhibits;
 - (2) Documentation of testing and observation;
 - (3) Preparation of written reports which present findings, conclusions and recommendations of the investigation;
 - (4) Preparation of specifications and guidelines for achieving the intent of subdivision (e)(3), above.

427.10. References for Professional Engineers and Land Surveyors.

To assist the Board in evaluating qualifications, each applicant shall submit completed reference forms, using form 01A-1B (Rev. 2/86) for professional engineers and using form 01A-19 (Rev. 5/86) for professional land surveyors, from as many references as may be consistent with the length and character of the professional experience; provided the applicant shall not furnish less than the number of references required hereafter:

- (a) An applicant for a license as a professional land surveyor or as a professional engineer shall refer to not less than four persons who are authorized to practice in the discipline

for which the applicant is applying and who have personal knowledge of the applicant's qualifying experience, none of whom is a relative either by birth or marriage.

(b) Nothing herein contained shall be construed to limit authority of the Board to seek such other information pertinent to the education and experience of the applicant as may be required to verify his or her qualifications. The Board may waive the requirement that only registered or licensed individuals give references for applicants in disciplines other than civil engineering or land surveying when the applicants have no association with registered or licensed individuals in their work environment.

427.20. Reference Requirements for "Soil Engineer."

(a) An applicant for authority to use the title "soil engineer" shall submit at least four completed reference forms from individuals who hold or held current, valid, unexpired California licenses as civil engineers during the time of the applicant's experience. None of the references shall be related to the applicant by birth or marriage. At least two of these individuals shall be civil engineers who are or were actively engaged in the practice of "soil engineering." Each civil engineer providing a reference shall clearly indicate areas of personal knowledge of the applicant's qualifying experience. Reference forms completed by civil engineers registered or licensed outside of California, in lieu of or in addition to California references, will be considered; however, the Board may require additional information as specified in Section 427.20(d). Reference forms completed by civil engineers registered or licensed outside of the State of California shall be notarized. Information submitted by references is confidential.

(b) Notwithstanding Section 427(a), a reference form shall be submitted for each period of qualifying experience listed on the engagement record form for which the applicant desires credit.

(c) An applicant will be required to verify employment inclusive dates for each period of qualifying experience. Employment verification forms may be used for this purpose.

(d) Nothing contained in this section shall limit the authority of the Board to require that an applicant submit additional references, employment verifications and other information pertinent to education or experience to verify that the applicant has met the minimum qualifications as defined in Sections 6736.1(a) and (c) of the Code and Sections 426.50 and 426.51.

427.30. References for Structural Authority.

(a) An applicant for authority to use the title "structural engineer" shall submit at least three completed reference forms, using form 01A-9 (Rev. 6/86), from individuals who hold current, valid California licenses as civil engineers, and who are authorized by the Board to use the title "structural engineer," or equivalent thereto, none of whom is related to the applicant by birth or marriage. Each reference shall have personal knowledge of the applicant's qualifying experience and shall have examined the applicant's work. It is preferred that at least one of the references has been a direct supervisor for a period of not less than six months.

(b) "Equivalent thereto" as used in this section, means a professional engineer who is authorized to use the title "structural engineer" in a state which has a comity agreement with this state related to "structural engineering."

Reference forms completed by a "structural engineer" registered outside of this state but registered or licensed in a state which has a comity agreement with the State of California shall be notarized.

(c) Nothing contained in this section shall limit the authority of the Board to require that an applicant submit additional references, employment verifications and other information

pertinent to the applicant's education and/or experience to verify that the applicant meets the minimum qualifications as defined in Sections 426.10, 426.11 and/or 426.13.

428. Abandoned Applications.

In the absence of special circumstances any of following actions by an applicant for certification or licensure shall be considered to constitute abandonment of the application and shall result in cancellation of the application with no refund of the filing fee:

(a) Failure to provide additional information or references within 90 days following the mailing of a request by the Board's staff; or

(b) Failure to complete that examination to which the application has been assigned within two (2) years from the date of filing of the application; or

(c) Failure to appear for examination at the designated time and place unless a postponement has been obtained in accordance with Rule 446; or

(d) Failure to appear for examination at the designated time and place after having obtained two postponements.

429. Application Appeal.

(a) An applicant who is notified by the board that his/her application has been denied may appeal to the board for re-evaluation of his/her application. An application appeal shall be filed with the board within 60 days after the date the denial notice has been mailed to him/her.

(b) An application appeal shall be made in writing and shall state the reason therefor. An appeal shall be supported by additional evidence, more references, affidavits, and supplemental information such that the board may be better informed of the applicant's qualifications.

(c) The executive officer may deny an application appeal which is not filed within the time period provided in paragraph (a) of this rule.

(d) The executive officer shall notify each applicant who appeals under this rule of the approval of his/her appeal, or the reason for its denial.

(e) When an application has been denied, the executive officer shall also notify the applicant that he or she has the right to hearing under the Administrative Procedure Act (Government Code Section 11500 et seq.), if he or she makes a written request for hearing within 60 days after service of the notice of denial.

Article 3. Examinations

436. Schedule of Regular Written Examinations.

(a) Written examinations shall be given at intervals as determined by the board but not less than once each year.

(b) The executive officer shall publish annually, not later than three months prior to the end of each calendar year, a schedule of examinations for the following year.

(c) Whenever circumstances warrant such action the board may postpone, advance, or otherwise change without notice the examination schedule previously published.

437. Individual Examination.

(a) Individual examinations for licensure, certification, or authorization shall be either oral or written or a combination of both, in the discretion of the Board. They may be held at times and places convenient to the Board.

(b) An applicant for licensure as a professional engineer or as a land surveyor will be

considered for assignment to an individual examination provided his/her qualifications meet all the requirements of the code and rules of the Board and provided he/she holds a valid registration or license as a professional engineer as a land surveyor in another state, in the same branch in which he/she is applying; such registration or license having been obtained by passing written examinations of comparable standard to those examinations required in California.

(c) An applicant for authority to use the title "structural engineer" may be considered for the individual examination only if he/she has passed a 16-hour examination in another state which the Board may deem equivalent to the written examination for structural authority given in California. This 16-hour examination shall have been in addition to the regular examination series for registration or licensure as a professional engineer; and shall have contained significant emphasis on seismic design and lateral load considerations.

438. Waiver of Fundamentals Examination.

(a) An applicant for licensure as a professional engineer whose qualifications meet all requirements of the code and rules of the Board will be allowed to appear for only the second division of the written examination prescribed by Section 6755 of the Code if he/she meets one or more of the following requirements:

(1) Holds valid licensure as a professional engineer in another branch in California.

(2) Holds valid certification as an engineer-in-training in another state obtained by passing a written examination which normally requires a minimum of eight hours to complete and the content of the examination is designed to test the candidates knowledge of fundamental engineering subjects, including mathematics and the basic sciences.

(3) Is a graduate of an approved engineering curriculum and submits satisfactory evidence to the board that he/she has fifteen (15) years or more of qualifying experience.

(4) Is a graduate of an engineering curriculum with a B.S. degree or equivalent four year engineering degree and submits satisfactory evidence to the Board that he/she has seventeen (17) years or more of qualifying experience.

(5) Is the holder of an earned doctorate in engineering in a curriculum at a university or college where the undergraduate engineering curriculum in the same branch of engineering has been approved by the Board, or is serving in a tenure-track faculty position in a Board-approved engineering curriculum, at the level of Assistant Professor or higher. This provision shall remain in effect for a period of five (5) years from the effective date of this amendment, after which it shall be null and void and shall have no effect.

[438 (a) (5) Originally effective January 4, 1995]

(b) An applicant for licensure as a land surveyor whose qualifications meet all requirements of the code and rules of the Board will be allowed to appear for only the second division of the written examination prescribed by Section 8741 of the Code if he/she meets one or more of the following requirements:

(1) Holds valid licensure as a professional engineer in California.

(2) Holds valid certification as an engineer-in-training obtained by passing a written examination which normally requires a minimum of eight hours to complete and the content of the examination is designed to test the candidate's knowledge of fundamental engineering subjects including mathematics and the basic sciences.

(3) Is a graduate of an approved land surveying curriculum and submits satisfactory evidence to the Board that he/she has fifteen (15) years or more of qualifying experience.

(4) Is a graduate of a land surveying curriculum with a B.S. degree or equivalent and submits satisfactory evidence to the Board that he/she has seventeen (17) years or more of qualifying experience.

(5) Holds valid certification as a land surveyor-in-training in another state obtained by passing a written examination which normally requires a minimum of eight hours to complete and the content of the examination is designed to test the candidate's knowledge of fundamentals of land surveying including mathematics and the basic sciences.

(c) An applicant for a California certification as an engineer-in-training or a land surveyor-in-training who holds valid certification in another state obtained as in (a)(2) or (b)(5) above; may be issued a California certificate.

439. Examination Not Permitted.

A person certified or licensed, by the board in a category or branch is not permitted to take any portion of the examination for the same category or branch unless his or her certificate; or license-has expired pursuant to Section 6796.3 or Section 8803 of the Code or unless re-examination is ordered as a probationary condition pursuant to Section 419.

441. Authorization to Take Examination.

(a) After evaluating the qualifications of an applicant and establishing that person's eligibility for the examination, the executive officer assigns the applicant to the next scheduled examination for which the applicant qualified.

(b) Any applicant who lacks the qualifications for admission to the examination required by Chapter 7 or 15 of the code and rules of the board shall be declared ineligible; the application shall be denied and the application fee may be partially refunded in accordance with the provisions of Sections 158, 6763.5 and 8748.5 of the code. The executive officer shall notify each applicant of the reason for denying the application.

(c) Notification of the applicant's assignment and authorization to take the examination and the location shall be postmarked at least 14 days prior to the examination date.

442. Examination Irregularities.

(a) Communication between examinees during examination is strictly prohibited; and examinees are forbidden to receive any unauthorized assistance in the examination.

(b) Before the commencement of an examination, examinees will be required to hand to the examiner any unauthorized printed or written matter or other devices in their possession which might serve to aid them in the examination.

(c) Evidence of copying or collusion by an examinee may, in the discretion of the board, result in the denial of his/her application with prejudice, thereby forfeiting his application fee, and may prevent him/her from qualifying for future examinations.

(d) An applicant in any regular written examination who places any identifying mark upon his/her examination papers other than his/her identification number, may have his/her application denied by the board and forfeit his/her application fee.

443. Inspection of Examination.

(a) The following definitions as used in these regulations have the meaning expressed in this section:

(1) "Essay type problem" means an engineering or land surveying problem in which the examinee provides a free response as solution and is graded for method, computations and answers. Scoring is determined by comparing examinee solutions with pre-determined scoring plans.

(2) "Multiple-choice type problem" means an engineering or land surveying problem which requires the examinee to select an answer from a multiple response format. Computations are not considered in the grading process for multiple-choice items.

(b) Multiple-choice type problems shall not be reviewed.

(c) An applicant who meets the criteria specified in subparagraph (1) or (2) below shall be granted 8 hours to review or write an appeal for an essay type problem or problems attempted during the written examination.

(1) Who is no more than 8 points below the passing score on a National Council of Examiners for Engineering and Surveying Professional Engineering examination;

(2) Who is no more than 15% below the passing score on a State specific Professional Engineering or Professional Land Surveying examination.

(d) Time and location of the examination review or appeal session shall be designated by the executive officer.

(e) At the time of the review or appeal session, no one other than the examinee and representatives of the board shall have access to such examination papers.

(f) Evidence that the applicant erased, deleted, removed or altered the examination papers, or the material contained thereon during such inspection, may result in the applicant being disqualified by the board from taking future examinations.

(g) The applicant shall have access to his or her examination, test booklets and solutions when reviewing or preparing an appeal of an essay type problem during the time period specified in subsection (c).

444. Examination Appeal.

(a) Applicants who were unsuccessful in the Professional Engineers or Professional Land Surveyor Examination will be notified by mail with the notice of results of the date and time in which they may attend a review or appeal session. The appeal fee referred to in section 407(d) must be received by the board within twenty-one (21) days from the date of the notice of the results of his or her examination. Applicants who decide to submit an appeal will be required to submit their appeal at the end of the review or appeal session.

(b) An appeal of an essay type problem of the examination shall be made in writing; and it shall state the reason for appeal, citing the item or items against which the appeal is directed, and it shall be accompanied by the appropriate appeal fee. The applicant shall identify the specific item(s) being challenged: the specific reasons for the challenge: and cite reference materials, facts and figures to substantiate the appeal. The appeal fee shall be payable for an appeal directed at an essay type problem of the examination. An appeal may be directed to any specific essay type problem or problems or sub-parts thereof, but an appeal shall cause the entire problem to be rescored. Rescoring of an essay type problem may result in one of the following three actions: points may be added; points may be deducted; or the score may remain the same. If the appeal results in the appellant being deemed to have passed the examination, the full appeal fee shall be refunded.

(c) The executive officer may deny any appeal requesting a review of an examination that is not accompanied by information supporting the reason for such request, is not

accompanied by the correct appeal fee, or is not filed within the period of time provided in paragraph (a) of this rule.

(d) The Board's decision on an appeal of an essay type problem is final and shall not be re-evaluated. A multiple-choice type problem is not appealable.

446. Postponements.

The executive officer may grant a postponement, not to exceed two such postponements for each application to any applicant who for reasonable cause is prevented from appearing for examination at the time fixed, provided the applicant's request for postponement and the reason therefor is filed with the principal office of the board at any time prior to the expiration of the ten (10) day period immediately following the date of such examination.

447. Permissible Reference Material and Other Accessories.

The executive officer shall advise each examinee when he/she is notified that he/she is assigned to an examination, what reference and other materials may be used during the examination to which he/she has been assigned.

Article 4. Miscellaneous

460. Curricula Approved by the Board.

(a) A curriculum approved by the board as qualifying a graduate of that curriculum for four years' engineering experience, or a non-graduate with one-half year of experience for each year of study completed, as provided in Section 6751 of the code, is defined as any engineering curriculum leading to a first degree in engineering accredited by the Accreditation Board for Engineering and Technology (ABET). The effective date of accreditation shall be one year prior to the initial year of accreditation as specified in the ABET Accreditation Yearbook.

(b) The board may give one-half year of experience credit for each year of study completed in a non-approved engineering curriculum except that the maximum of such experience credit shall be two years per applicant.

(c) (1) The board may give one-half year of experience credit for each year of study completed in an approved curriculum leading to a degree in engineering technology except that the maximum of such experience credit shall be two years per applicant.

(2) The board has approved the curricula leading to a degree in engineering technology which have been accredited by the Engineers' Council for Professional Development.

461. Testing Laboratory Reports.

Reports issued by Testing Laboratories shall be prepared by or under the supervision of a licensed civil, electrical, or mechanical engineer as appropriate and signed or sealed by him/her whenever such reports go beyond the tabulation of test data (composition of material, breaking stress, et cetera) and proceeds to:

(a) Interpret the data to draw conclusions as to the characteristics of civil engineering structure, an electrical or mechanical device, or parts thereof.

(b) Express civil, electrical, or mechanical engineering judgment in the form of recommendations derived from the results of the test.

(c) Perform design work in the preparation of plans, specifications, and other instruments requiring licensure as a civil, electrical, and/or mechanical engineer.

463. Notice of Association or Disassociation With Partnership, Firm, or Corporation.

(a) A professional engineer who is associated as the partner, member, officer, or employee in responsible charge of professional engineering services offered or performed by a firm, partnership, or corporation, shall notify the board within thirty (30) days of such association or termination of association on a form approved by the Board.

(b) A licensed land surveyor and/or civil engineer; who practices or offers to practice land surveying, according to the provisions of Section 8729 of the Code, as a partner, member, or officer of a partnership, firm, or corporation shall advise the Board within thirty (30) days of such association or termination of association on a form approved by the Board.

(c) A licensed photogrammetric surveyor who is associated as a member, partner, officer, or employee in a firm, partnership, or corporation which offers or performs photogrammetric surveying services according to the provisions of Article 5.5 of the Professional Land Surveyors' Act shall notify the Board within thirty (30) days of such association or termination of association on a form approved by the Board.

(d) A firm; which contains partners, members or officers as described above; will be allowed six months following the death, disassociation, or retirement of a member, partner, or officer whose name the firm, partnership, or corporation carried in its firm title to make a written request to the Board for an investigation pursuant to the requirements of Section 6738(e) or 6738.1 of the Code. The Board will determine if such firm is eligible to continue use of its firm title without change.

463.5. Providing Notice of Licensure.

Every licensee shall provide notice to his or her clients that the licensee is licensed by the Board for Professional Engineers and Land Surveyors. Notice shall be provided by one or more of the following methods:

(a) Displaying his or her wall certificate in a public area; or office; or individual work area of the premises where the licensee provides the licensed service.

(b) Providing a statement to each client that states the client understands the licensee is licensed by the Board for Professional Engineers and Land Surveyors. Said statement shall be signed and dated by the client and shall be retained in the licensee's records.

(c) Including a statement that the licensee is licensed by the Board for Professional Engineers and Land Surveyors either on letterhead or on a contract for services. If said statement is included on a contract for services, it shall be placed immediately above the signature line for the client in at least 12 point type.

(d) Posting a notice in a public area of the premises where the licensee provides the licensed services that states the named licensee is licensed by the Board for Professional Engineers and Land Surveyors. Said notice shall be in at least 48 point type.

(Effective March 10, 2000)

464. Corner Record.

(a) The corner record required by Section 8773 of the Code for the perpetuation of monuments shall contain the following information for each corner identified therein:

(1) The county and, if applicable, city in which the corner is located.

(2) An identification of the township, range, base, and meridian in which the corner is located, if applicable.

(3) Identification of the corner type (example: government corner, control corner, property corner, etc.).

- (4) Description of the physical condition of
 - (A) the monument as found and
 - (B) any monuments set or reset.

(5) The date of the visit to the monument when the information for the corner record was obtained.

(6) For Public Land Corners for which a corner record is required by Section 8773(a) of the Code, a sketch shall be made showing site recovery information that was used for the corner. For other kinds of corners, a drawing shall be made which shows measurements that relate the corner to other identifiable monuments.

(7) A reference to the California Coordinate System is optional at the discretion of the preparer of the record.

(8) The date of preparation of the corner record and, as prescribed by Section 8773.4 of the Code, the signature and title of the chief of the survey party if the corner record is prepared by a United States Government or California State agency or the signature and seal of the land surveyor or civil engineer, as defined in Section 8731 of the Code, preparing the corner record.

(9) The date the corner record was filed and the signature of the county surveyor.

(10) A document or filing number.

(b) A corner record shall be filed for each public land survey corner which is found, reset, or used as control in any survey by a land surveyor or a civil engineer. Exceptions to this rule are identified in Section 8773.4 of the Code.

(c) The corner record shall be filed within 90 days from the date a corner was found, set, reset, or used as control in any survey. The provisions for extending the time limit shall be the same as provided for a record of survey in Section 8762 of the Code.

(d) A corner record may be filed for any property corner, property controlling corner, reference monument, or accessory to a property corner, together with reference to record information. Such corner record may show one or more property corners, property controlling corners, reference monuments, or accessories to property corners on a single corner record document so long as it is legible, clear, and understandable.

(e) When conducting a survey which is a retracement of lines shown on a subdivision map, official map, or a record of survey, where no material discrepancies with these records are found and where sufficient monumentation is found to establish the precise location of property corners thereon, a corner record may be filed in lieu of a record of survey for any property corners which are set or reset or found to be of a different character than indicated by prior records. Such corner records may show one or more property corners, property controlling corners, reference monuments or accessories to property corners on a single corner record document so long as it is legible, clear, and understandable.

(f) The standard markings and standard abbreviations used by the Bureau of Land Management (formerly the General Land Office) of the United States Department of the Interior shall be used in the corner record.

(g) The corner record shall be filed on a form prescribed by the Board. The approved form is BORPELS-1297.

465. Records of Survey - Public Officers.

A public officer who has performed a survey which is subject to the requirements of Section 8762 of the code, shall file a record of survey map or comply with Section 8765(a) of the code. In either event, the public officer shall file the information required by Section 8765(a)

of the code relating to his or her survey within the time limit provided for in Section 8762 of the code.

470. Application Response.

(a) The following time frames, based on taking and passing the first available examination, shall apply to applications for licensure as a professional engineer or as a professional land surveyor; when an examination is required.

(1) Within 150 calendar days of receipt of an application, the Board shall inform the applicant in writing that the application is either accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.

(2) A complete application shall include a score for all parts of the examination. Within 60 calendar days after the filing of a complete application, the Board shall make a decision regarding the applicant's eligibility for licensure.

(b) The following time frames, based on taking and passing the first available examination, shall apply to applications for certification to use the titles "Engineer-in-Training" or "Land Surveyor-in-Training" when an examination is required:

(1) Within 75 calendar days of receipt of an application, the Board shall inform the applicant in writing that the application is either accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.

(2) A complete application shall include a score for the examination. Within 60 calendar days after the filing of a complete application, the Board shall make a decision regarding the applicant's eligibility to use either the title "Engineer-in-Training" or "Land Surveyor-in-Training."

(c) The following time frames shall apply to applications for licensure as a professional engineer or as a professional land surveyor; when comity licensure is applied for and when no examination is required:

(1) Within 125 calendar days of receipt of a comity application, the Board shall inform the applicant in writing that the application is either accepted for filing and complete or that it is deficient and what specific information or documentation is required to complete the application.

(2) Within 60 calendar days after the date of filing of a complete application, the board shall make a decision regarding the application for licensure.

471. Processing Time.

The board's time periods are based upon an applicant taking and passing the first available examination and for processing an application from the receipt of the initial application to the final decision regarding issuance or denial of licensure based on the board's actual performance during the two years preceding the proposal of this section:

- (a) The median time was 255 days.
- (b) The minimum time was 10 days.
- (c) The maximum time was 1548 days.

472. Citations of Unlicensed Persons.

(a) The Executive Officer *or his or her designee* is authorized to issue citations containing orders of abatement or administrative fines pursuant to Business and Professions Code sections 148 and 149 against *may issue a citation for any violation of any provision of law enforced by the*

Board to an unlicensed persons who, unless otherwise exempt, is acting in the capacity of or engaging in the practice of a professional engineer or professional land surveyor within this state without licensure in any discipline as a professional engineer and/or as a professional land surveyor.

(b) If, upon inspection or investigation, either upon complaint or otherwise, the Executive Officer has cause to believe that a person is acting in the capacity of or engaging in the practice of a professional engineer or professional land surveyor within this state without having a license to so act or engage, the Executive Officer may issue a citation to that person.

(c) (b) Each citation

(1) shall be in writing;

(2) ~~and shall describe with particularity the basis of the citation~~ *the nature of the violation*, including specific reference to the provision *or provisions* of law determined to have been violated-;

(3) ~~(d) Each citation may shall contain an order of abatement or may contain an assessment of an administrative fine, an order of abatement fixing a reasonable period of time for abatement of the violation, or both an administrative fine and an order of abatement; in an amount not more than two thousand five hundred dollars (\$2,500).~~

(4) ~~(e) Service of a citation shall be made by certified mail served on the cited person at the last known business address or residence address of the person cited personally or by certified mail with return receipt requested;~~

(5) *shall inform the cited person that failure to pay the fine within 30 calendar days of the date of assessment, unless the citation is being appealed, may result in the Executive Officer applying to the appropriate superior court for a judgment in the amount of the administrative fine;*

(6) *shall inform the cited person that, if he/she desires an informal conference to contest the finding of a violation, the informal conference shall be requested by written notice to the Board within 30 calendar days from service of the citation;*

(7) *shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the Board within 30 calendar days from service of the citation.*

and shall include information regarding appeal rights and copies of the applicable code sections violated.

(f) Notice shall be provided in each citation that the Board may review and sustain or reverse, by a majority vote, any final order in accordance with the applicable provisions of Chapters 4.5 and 5 (commencing with Section 11400) of Part 1 of Chapter 3 of Title 2 of the Government Code.

(Effective January 1, 2000)

472.1. Assessment of Administrative Fine.

(a) Before assessing an administrative fine under Section 472, the Executive Officer shall give due consideration to the gravity of the violation, the good faith of the cited person, and the history of previous violations:

(b) In no event shall ~~an~~ *the* administrative fine be assessed in an amount greater than *less than \$50 or exceed two thousand five hundred dollars (\$2,500) for each violation.*

(c) ~~(b)~~ In determining the amount of an administrative fine against a cited individual, the Executive Officer shall be bound by the following prescribed amounts *consider the following factors.*

- (1) The nature and severity of the violation;
- (2) The good or bad faith exhibited by the cited person;
- (3) The history of previous violations;
- (4) The extent to which the cited person has cooperated with the Board and the Board's investigation;
- (5) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his/her violation;
- (6) Any factors in extenuation or aggravation related to the violation;
- (7) *Other matters as may be appropriate.*

Examination subversion § 50 -- 250

(B & P section 123)

The offer to practice civil, electrical or mechanical engineering or land surveying without legal authorization § 50 -- 750

(B & P section 6787(a)(f)(g)(j) and 8792(a)(g))

The use of any restricted title, combination of titles, and/or abbreviations of titles without legal authorization § 50 -- 750

(B & P sections 6787(f)(h)(i)(j), 8751, and 8775)

The practice of civil, electrical or mechanical engineering or land surveying without legal authorization § 50 -- 1500

(B & P sections 6787(a)(f)(g)(j) and 8792(a)(g))

Represents himself or herself as a professional engineer or professional land surveyor without legal authorization § 50 -- 1500

(B & P sections 6787(a)(b)(f)(j) and 8792(a)(b)(g))

Impersonates or uses the seal of any other practitioner § 50 -- 2500

(B & P sections 6787(d) and 8792(e))

Violation of any provision of the Professional Engineers Act or Professional Land Surveyors Act § 50 -- 2500

(B & P sections 6787(j) and 8792(g))

(Effective January 1, 2000)

472.2. Appeal of Citations.

(a) Any person served with a citation ~~under issued pursuant to~~ Section 472 may *contest the citation by* submitting a written request for ~~appeal to the Executive Officer a hearing to the Board~~ within 30 *calendar* days of the ~~date of issuance~~ *service* of the citation. ~~and may also submit a written request within 30 days of the date of issuance of the citation for an informal conference with the Executive Officer with respect to violations alleged, scope of the order of abatement, or amount of administrative fine assessed.~~

(b) ~~If the person cited under Section 472 submits a written request to appeal the citation within 30 days of its issuance, the Board shall hold a hearing. Such hearings shall be conducted pursuant to the Administrative Procedures Act, Chapters 4.5 and 5, commencing with Section 11500 11400) of Part 1 of Division 3 of Title 2 of the Government Code.~~

(b) In addition to requesting a hearing as described in subsection (a), the cited person may, within 30 calendar days of service of the citation, submit a written request for an informal conference with the Executive Officer.

(c) The Executive Officer may, within 30 *working* days from receipt of a *written* request *for an informal conference* as provided in subsection ~~(a)~~ *(b)*, hold an informal conference with the *cited* person ~~cited~~ and/or his or her legal counsel or authorized representative. The 30-

day period may be extended by the Executive Officer for good cause. ~~At the conclusion of~~ *Following* the informal conference, the Executive Officer may affirm, modify, or dismiss the citation, including any administrative fine ~~levied~~ *assessed* or order of abatement issued. The Executive Officer shall state in writing the reasons for his or her action and serve a copy of the findings and decision to the cited person within 30 days from the date of the informal conference. Service may be made by certified mail at the last known business address or residence address of the person cited. The decision shall be deemed to be a final order of the Executive Officer. *An order affirming, modifying, or dismissing the original citation shall be served on the cited person within 30 calendar days from the informal conference. Said order shall state in writing the reasons for the affirmation, modification, or dismissal of the original citation. If the order affirms or modifies the original citation, said order shall fix a reasonable period of time for abatement of the violation or payment of the fine. Service of this order shall be made as provided in Section 472. This order shall be considered the conclusion of the informal conference proceedings.*

(d) ~~The cited person does not waive his or her right to request a hearing to appeal the citation by requesting an informal conference after which the citation is affirmed by the Executive Officer. If the citation is affirmed or modified following the informal conference, the cited person may request a hearing as provided in subsection (a) within 30 calendar days from service of the order described in subsection (c). The cited person shall not be permitted to request another informal conference. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested in writing within 30 days in accordance with subsection (b)(4) of Section 125.9 of the Business and Professions Code.~~

(e) ~~If, within 30 days of the date of issuance of the citation, the person cited has failed to file a written request to appeal the citation with the Executive Officer, the citation shall be deemed a final order. If the citation is dismissed after the informal conference, the request for a hearing, if any, shall be deemed to be withdrawn.~~

(f) ~~After the exhaustion of the review procedures provided for in this section, the Executive Officer may apply to the appropriate superior court for a judgment in the amount of the administrative fine or an order compelling the cited person to comply with the order of abatement. Submittal of a written request for a hearing as provided in subsection (a), an informal conference as provided in subsection (b), or both stays the time period in which to abate the violation and/or to pay the fine.~~

(g) ~~If the written request for a hearing as provided in subsection (a) or an informal conference as provided in subsection (b) or both is not submitted within 30 calendar days from service of the citation, the cited person is deemed to have waived his/her right to a hearing or an informal conference.~~

(Effective January 1, 2000)

472.3. ~~Failure to Comply~~ Compliance with Order.

(a) ~~If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his/her control after the exercise of reasonable diligence, then he/she may request from the Executive Officer an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.~~

(b) ~~The f~~Failure of an applicant for licensure as a professional engineer or as a professional land surveyor to ~~comply with a citation or pay a fine after it is final~~ *abate the*

violation or to pay the fine within the time allowed is a ground for denial of licensure.

~~(b)~~ (c) Notwithstanding any other provision of the law, the Executive Officer may waive all or part of an administrative fine if the person against whom the citation is assessed satisfactorily completes all the requirements for, and is issued, a license.

(d) *If the cited person fails to pay the assessed fine within the time allowed, the Executive Officer may apply to the appropriate superior court for a judgment in the amount of the administrative fine.*

(e) *If a hearing as provided in Section 472.2(a) is not requested, payment of the fine shall not constitute an admission of the violation charged.*

(f) *Payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.*

(Effective January 1, 2000.)

472.4. Disconnection of Telephone Service.

(a) If, upon investigation, the Executive Officer has cause to believe that an unlicensed individual acting in the capacity of a professional engineer or professional land surveyor, who is not otherwise exempted from the provisions of the Professional Engineers Act or the Professional Land Surveyors' Act, has violated Sections 6787 or 8792 of the Code by advertising in a telephone directory, without being properly licensed, the Executive Officer may issue a citation under Section 472 containing an order of abatement which requires the cited person to both cease the unlawful advertising and notify the telephone company furnishing services to the cited person to disconnect the telephone services furnished to any telephone number contained in the unlawful advertising, and that subsequent calls to that number shall not be referred by the telephone company to any new telephone number obtained by that person. The cited person shall provide written evidence of compliance to the Executive Officer.

~~(b) If the person to whom a citation is issued under subdivision (a) submits a written request to the Executive Officer for a hearing to appeal the citation, the Executive Officer shall afford an opportunity for a hearing, as specified in Section 472.2.~~

~~(c) If the cited person to whom a citation and order of abatement is issued under subdivision (a) fails to comply with the an order of abatement after the order is final as provided in Section 472.2(c) as described in subsection (a) within the time allowed, the Executive Officer shall inform the Public Utilities Commission of the violation in accordance with Business and Professions Code section 149.~~

(Effective January 1, 2000)

473. Citations of Licensed Persons.

(a) The Executive Officer ~~or his or her designee~~ is authorized to issue citations containing orders of abatement or administrative fines pursuant to Business and Professions Code sections 125.9 and 149 against professional engineers or professional land surveyors licensed within this state who have committed any acts or omissions in violation of the applicable licensing act or any regulation adopted pursuant thereto *may issue a citation for any violation of any provision of law enforced by the Board to any person who holds a license issued by the Board.*

~~(b) If, upon inspection or investigation, either upon complaint or otherwise, the Executive Officer has cause to believe that a professional engineer or professional land surveyor has committed any acts or omissions in violation of the applicable licensing act or any regulation adopted pursuant thereto, the Executive Officer may, in lieu of filing an accusation, issue a citation to the professional engineer or professional land surveyor. Before a citation may be~~

~~issued~~ Prior to the issuance of a citation, the Executive Officer shall submit the alleged violation for review to at least one licensee of the Board who is competent in the branch of professional engineering or professional land surveying most relevant to the subject matter of the citation. The licensee reviewing ~~an~~ the alleged violation shall be either a member of the Board's professional staff, a technical advisory committee member, or an expert consultant. Upon conclusion of the review, the reviewer shall prepare a finding of fact and a recommendation based upon that finding to which the Executive Officer shall give due consideration in determining whether cause exists to issue a citation.

(c) Each citation

(1) shall be in writing;

(2) ~~and~~ shall describe with particularity ~~the basis of the citation~~ the nature of the violation, including specific reference to the *provision* or provisions of law determined to have been violated-;

(3) ~~(d) Each citation may contain an order of abatement or an assessment of an administrative fine, an order of abatement fixing a reasonable period of time for abatement of the violation, or both an administrative fine and an order of abatement; in an amount not more than two thousand five hundred dollars (\$2,500).~~

(4) ~~(e) Service of a citation issued under this section shall be served on the cited person made by certified mail at the address of record of the person cited on file with the Board personally or by certified mail with return receipt requested; and shall include information regarding appeal rights and copies of the applicable code sections violated.~~

(5) shall inform the cited person that failure to pay the fine within 30 calendar days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the Board. If a citation is not contested and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without the payment of the renewal fee and fine;

(6) shall inform the cited person that, if he/she desires an informal conference to contest the finding of a violation, the informal conference shall be requested by written notice to the Board within 30 calendar days from service of the citation;

(7) *shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the Board within 30 calendar days from service of the citation.*

(f) ~~Notice shall be provided in each citation that the Board may review and sustain or reverse, by a majority vote, any final order in accordance with the applicable provisions of Chapters 4.5 and 5 (commencing with Section 11400) of Part 1 of Chapter 3 of Title 2 of the Government Code.~~

(Effective January 1, 2000)

473.1. Assessment of Administrative Fines.

(a) ~~Before assessing an administrative fine under Section 473, the Executive Officer shall give due consideration to the gravity of the violation, the good faith of the licensee, and the history of previous violations.~~

~~(b) In no event shall the administrative fine be assessed in an amount greater than less than \$50 or exceed two thousand five hundred dollars (\$2,500) for each violation.~~

~~(c) (b) In determining the amount of an administrative fine against a cited individual, the Executive Officer shall be bound by the following prescribed amounts consider the following~~

factors.

- (1) *The nature and severity of the violation;*
- (2) *The good or bad faith exhibited by the cited person;*
- (3) *The history of previous violations;*
- (4) *The extent to which the cited person has cooperated with the Board and the Board's investigation;*
- (5) *The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his/her violation;*
- (6) *Any factors in extenuation or aggravation related to the violation;*
- (7) *Other matters as may be appropriate.*

Examination Subversion (B & P section 123)	§ 50 -- 250
Deceit in the practice of professional engineering or professional land surveying (B & P sections 6775(b) and 8780(a))	§ 50 -- 750
Misrepresentation in the practice of professional engineering or professional land surveying (B & P sections 6775(b), and 8780(a)(c))	§ 50 -- 750
Fraud or deceit in obtaining a license (B & P sections 6775(c) and 8780(b))	§ 50 -- 750
Violation of contract (B & P sections 6775(b) and 8780(f))	§ 50 -- 1500
Fraud in the practice of professional engineering or professional land surveying (B & P sections 6775(b) and 8780(a))	§ 50 -- 1500
Aiding and/or abetting the unlicensed practice of professional engineering or professional land surveying (B & P sections 6775(d) and 8780(e))	§ 50 -- 1500
Negligence in the practice of professional engineering or professional land surveying (B & P sections 6775(b) and 8780(a))	§ 50 -- 2500
Incompetence in the practice of professional engineering or professional land surveying (B & P sections 6775(b) and 8780(a))	§ 50 -- 2500
Any conviction of a crime substantially related to the qualifications, functions and duties of a professional engineer or professional land surveyor (B & P sections 6775(a) and 8780(d))	§ 50 -- 2500
Violation of any provision of the Professional Engineers Act or Professional Land Surveyors' Act (B & P sections 6775(e) and 8780(c))	§ 50 -- 2500

(Effective January 1, 2000)

473.2. Appeal of Citations.

(a) Any professional engineer or professional land surveyor ~~person~~ served with a citation ~~under issued pursuant to Section 473 may contest the citation by~~ submitting a written request for appeal to the Executive Officer ~~a hearing to the Board~~ within 30 calendar days of the date of

issuance ~~service~~ of the citation. The cited person may also submit a written request within 30 days of the date of issuance of the citation for an informal conference with the Executive Officer with respect to violations alleged and amount of penalties.

(b) If a professional engineer or professional land surveyor submits a written request to appeal the citation within 30 days of its issuance, the Board shall hold a hearing. *Such hearings shall be conducted* pursuant to the Administrative Procedures Act, Chapters 4.5 and 5, commencing with Section 11500 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) *In addition to requesting a hearing as described in subsection (a), the cited person may, within 30 calendar days of service of the citation, submit a written request for an informal conference with the Executive Officer.*

(c) The Executive Officer shall, within 30 *working* days ~~from~~ of receipt of a written request *for an informal conference* as provided in subsection (a) ~~(b)~~, hold an informal conference with the *cited* person cited and/or his or her legal counsel or authorized representative. The 30-day period may be extended by the Executive Officer for good cause. ~~At the conclusion of~~ *Following* the informal conference, the Executive Officer may affirm, modify, or dismiss the citation, including any administrative fine levied ~~assessed~~ or order of abatement issued. The Executive Officer shall state in writing the reasons for his or her action and serve a copy of the findings and decision to the cited person within 30 days from the date of the informal conference. Service may be made by certified mail at the last known business address or residence address of the person cited. The decision shall be deemed to be a final order of the Executive Officer. *An order affirming, modifying, or dismissing the original citation shall be served on the cited person within 30 calendar days from the informal conference. Said order shall state in writing the reasons for the affirmation, modification, or dismissal of the original citation. If the order affirms or modifies the original citation, said order shall fix a reasonable period of time for abatement of the violation or payment of the fine. Service of this order shall be made as provided in Section 473. This order shall be considered the conclusion of the informal conference proceedings.*

(d) The cited person does not waive his or her right to request a hearing to appeal the citation by requesting an informal conference, after which conference the citation is affirmed by the Executive Officer. *If the citation is affirmed or modified following the informal conference, the cited person may request a hearing as provided in subsection (a) within 30 calendar days from service of the order described in subsection (c). The cited person shall not be permitted to request another informal conference. If the citation is dismissed after the informal conference, the request for a hearing, on the matter of the citation shall be deemed to be withdrawn. If the citation is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested in writing within 30 days in accordance with subsection (b)(4) of Section 125.9 of the Business and Professions Code.*

(e) If, within 30 days of the date of issuance of the citation, the professional engineer or professional land surveyor has failed to file a written request to appeal the citation with the Executive Officer, the citation shall be deemed a final order. *If the citation is dismissed after the informal conference, the request for a hearing, if any, shall be deemed to be withdrawn.*

(f) *Submittal of a written request for a hearing as provided in subsection (a), an informal conference as provided in subsection (b), or both stays the time period in which to abate the violation and/or to pay the fine.*

(g) *If the written request for a hearing as provided in subsection (a) or an informal*

conference as provided in subsection (b) or both is not submitted within 30 calendar days from service of the citation, the cited person is deemed to have waived his/her right to a hearing or an informal conference.

(Effective January 1, 2000)

473.3. Compliance with Citations.

(a) *If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his/her control after the exercise of reasonable diligence, then he/she may request from the Executive Officer an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.*

~~(b) The failure of a professional engineer or professional land surveyor the cited person to comply with a citation or pay a fine after it is final~~ *abate the violation or to pay the fine within the time allowed is grounds for suspension or revocation of a the cited person's license.*

~~(b) (c) If a professional engineer or professional land surveyor does not appeal a citation and the cited person fails to pay all of the fine within the time allowed,~~ *the balance due for the fine shall be added to the renewal fee for the license, and the license shall not be renewed until the fine is paid in full pursuant to subsection (b)(5) of Section 125.9 of the Code.*

(d) If a hearing as provided in Section 473.2(a) is not requested, payment of the fine shall not constitute an admission of the violation charged.

(e) Payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(Effective January 1, 2000)

473.4. Disconnection of Telephone Service.

(a) *If, upon investigation, the Executive Officer has cause to believe that a professional engineer or professional land surveyor, who is not otherwise exempted from the provisions of the Professional Engineers Act or the Professional Land Surveyors' Act, has violated Sections 6787 or 8792 of the Code by advertising in a telephone directory, without being properly licensed, the Executive Officer may issue a citation under Section 473 containing an order of abatement which requires the cited person to both cease the unlawful advertising and notify the telephone company furnishing services to the cited person to disconnect the telephone services furnished to any telephone number contained in the unlawful advertising, and that subsequent calls to that number shall not be referred by the telephone company to any new telephone number obtained by that person. The cited person shall provide written evidence of compliance to the Executive Officer.*

~~(b) If the person to whom a citation is issued under subdivision (a) submits a written request to the Executive Officer for a hearing to appeal the citation, the Executive Officer shall afford an opportunity for a hearing, as specified in Section 473.2.~~

~~(c) If the cited person to whom a citation and order of abatement is issued under subdivision (a) fails to comply with the an order of abatement after the order is final as provided in Section 473.2(c) as described in subsection (a) within the time allowed,~~ *the Executive Officer shall inform the Public Utilities Commission of the violation in accordance with Business and Professions Code section 149.*

(Effective January 1, 2000)

474. Establishment of Criteria.

The criteria for the selection of a contractor are: professional excellence, demonstrated

competence, specialized experience of the person, education and experience, ability to meet schedules, nature and quality of completed work, reliability of the person, location and other considerations the Executive Officer deems necessary to the performance of the contract.

474.1. Request for Qualifications.

(a) Where a project requires professional engineering or land surveying services the Executive Officer shall make a statewide request for qualifications through the publications of the respective professional societies and in other appropriate publications.

(b) The request for qualifications shall contain the following information: the nature of the work, the criteria upon which the award shall be made, the name of the contact person, the address to send statements of qualifications and performance data, and the deadline by which the statements must be received.

(c) The Executive Officer shall provide a copy of each request for qualifications to all small businesses who have indicated an interest in receiving the request. A failure of the Executive Officer to send a copy of a request for qualifications to any person shall not operate to preclude any contract.

474.2. Selection of Engineers and Land Surveyors

After expiration of the deadline stated in the publications, as specified in Section 474.1, the Executive Officer, in conjunction with no less than three persons selected by the Executive Officer, shall evaluate statements of qualifications and performance data of firms which have been submitted to the Board. Based upon the statement of qualifications and performance data, a list ranking the qualified firms will be made.

From a list of three or more qualified firms, the Executive Officer shall select the first three ranked firms for contract negotiation to provide the services required. Where three qualified firms cannot be found which could provide the required service, the Executive Officer may then select from the available firms or issue a new request for proposal. Selections based on less than three firms must be documented with the names and addresses of firms contacted by the Executive Officer and the reasons why the provisions of this section could not be met. This documentation shall be maintained in the Board's Contract file.

474.3. Conflict of Interest/Unlawful Activity.

Governmental agency employees who are related to persons seeking to contract under these regulations shall not participate in any aspect of the contract review or selection process.

Further, any practice that results in an unlawful activity including, but not limited to, rebates, kickbacks, or any other unlawful consideration shall be prohibited.

474.4. Amendments.

In instances where the Board effects a necessary change in the project during the course of performance of the contract, the contractor's compensation may be adjusted by negotiation of a mutual written agreement in a fair and reasonable amount where the amount of work to be performed by the contractor is changed from that which the parties had originally contemplated.

474.5. Contracting in Phases.

Should the Board determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price or compensation provisions in the initial instance, provided that the Board shall have determined that the person is best qualified to perform the whole project at a fair and reasonable cost, and the contract

contains provisions that the Board, at its option, may utilize the person for other phases and that the person will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument. The procedure with regard to negotiation provided for in Section 6106 of the Public Contract Code shall be applicable.